

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

NOTICE OF REMOVAL

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI, SOUTHERN DIVISION

COMES NOW defendant Mercy Hospital Springfield (wrongfully sued as “Mercy Hospital”)(hereinafter “Mercy”), by and through counsel, subject to all of its defenses, including Rule 12 defenses, and respectfully notify this Court of the removal of this action of plaintiff, Lisa Pratt, under Case No. 1331-CC00574, currently pending in the Circuit Court of Greene County, Missouri (the “Greene County Action”) to the United States District Court for the Western District of Missouri, Southern Division, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446. This Notice is based on the following grounds:

1. Mercy is the defendant in the above-referenced civil action that was filed on or about April 25, 2013. True and correct copies of all process, pleadings and orders served on Mercy are attached hereto as Exhibit A.

2. Tony Bleau, a paralegal with Mercy, accepted service of process of plaintiff's Summons and Petition in the Greene County Action on behalf of Mercy on

May 15, 2013. On June 3, 2013, defendant filed its motion to dismiss plaintiff's Petition, which has been pending until plaintiff filed her First Amended Petition on October 8, 2013, alleging only federal statute claims. Therefore, this Notice, filed within thirty (30) days after receipt by Mercy of a copy of plaintiff's pleading setting forth her alleged claims for relief, is timely filed pursuant to 28 U.S.C. § 1446(b).

3. This action is of a civil nature over which the Court has jurisdiction pursuant to 28 U.S.C. § 1331. In her First Amended Petition, plaintiff claims that she was wrongfully terminated based upon disability in violation of her rights as an individual. Plaintiff alleges that she has followed all administrative remedies through the EEOC before filing this litigation. Because plaintiff's claims allegedly arise under the laws of the United States, including, but not limited to the ADA, this case invokes this Court's original jurisdiction pursuant to 28 U.S.C. § 1331 and may be removed to this Court pursuant to 28 U.S.C. § 1441.

4. This Court is the District Court of the United States for the district division embracing the place where this action is currently pending.

5. True and correct copies of this petition for removal with accompanying exhibits and notice of removal directed to the State Court are being served on plaintiff's counsel and filed with the Circuit Court of Greene County, Missouri, in accordance with the provisions of 28 U.S.C. § 1446(d).

6. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Mercy's rights to assert any defense or affirmative matter, including, but not limited to, the defenses of: (1) lack of jurisdiction over the person; (2) improper venue; (3) insufficiency of process; (4) insufficiency of service of process; (5) improper

joinder of claims or parties; (6) failure to state a claim; (7) the mandatory arbitration of some or all of the putative claims; (8) failure to join an indispensable party(ies); (9) waiver; (10) statute of limitations, or (11) any other pertinent defense available under Fed.R.Civ.P. 12 or its state law equivalent, any state or federal statute, or otherwise.

WHEREFORE, defendant Mercy Hospital Springfield hereby removes this action from the Circuit Court of Greene County, Missouri, to the United States District Court for the Western District of Missouri, Southern Division.

Respectfully submitted,

LATHROP & GAGE LLP

By: */s/ Amanda D. Cochran*

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Attorneys for Defendant
Mercy Hospital Springfield

CERTIFICATE OF SERVICE

I, Amanda D. Cochran, one of the attorneys for defendant Mercy Hospital Springfield, in the above-captioned matter, do hereby certify that a copy of the foregoing ***Notice of Removal*** was e-filed to the following counsel of record this the 15th day of October 2013.

Ron Cleek
202 E. Elm, Ste. D
Ozark, MO 65721

/s/ Amanda D. Cochran
Amanda D. Cochran